



# Committee On Finance

Max Baucus, Ranking Member

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## NEWS RELEASE

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For Immediate Release  
Friday, November 14, 2003

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### **Baucus Joined by Ten Colleagues in Raising Serious Concerns about Status of Energy Negotiations** *Group Contacts Chairman, Urge Inclusion and Discussion of Outstanding Issues*

(WASHINGTON, D.C.) U.S. Senator Max Baucus, along with a group of fellow Senators, today contacted Senator Pete Domenici, Chairman of the Senate Energy and Natural Resources Committee, to highlight their disappointment that important issues have been left unresolved because a number of conferees have not been allowed to participate in the discussions.

The letter was also signed by Sens. Tim Johnson (D-S.D.), Kent Conrad (D-N.D.), Herb Kohl (D-Wis.), Blanche Lincoln (D-Ark.), Tom Harkin (D-Iowa), Byron Dorgan (D-N.D.), Russell Feingold (D-Wis.), Benjamin Nelson (D-Neb.), Mark Pryor (D-Ark.), Richard Durbin (D-Ill.).

"While I have been pleased that I have been partially included in the energy talks having to do with the tax title due to Chairman Grassley's efforts, my colleagues and I have been completely shut out of discussions dealing with the majority of the bill," Baucus said. "The only way to achieve an energy bill that works for America is to have all sides at the table working out a compromise. I'm hopeful that the conferees will address the issues we raise today and that will be able to pass an effective energy bill that benefits consumers, protects the environment and promotes energy efficiency."

Full text of letter follows:

November 14, 2003

The Honorable Pete V. Domenici  
Chairman  
Energy and Natural Resources Committee  
364 Dirksen  
Washington, DC 20510

Dear Chairman Domenici:

As the conference on energy legislation comes to a close, we feel it is necessary to emphasize several areas of concern. We are writing to you because the conference process – with the exception of negotiations on the tax title – has provided very little opportunity for conferees to participate in negotiations. We believe this is very unfortunate given the importance of a balanced energy bill to our constituents and to the nation.

The satisfactory resolution of several issues will factor heavily into our decision to support or oppose a final conference agreement on the energy bill. These issues include:

Renewable Fuels Standard (RFS): We strongly support inclusion of the Senate language on a Renewable Fuels Standard along with an increased schedule. A sound and predictable RFS is critical to American efforts to reduce our dependence on foreign oil. The RFS should not include a liberal waiver provision, and it must reflect increases in production and capacity in its schedule.

In addition, we oppose the inclusion of expansive retroactive liability protection for MTBE producers in any energy bill that comes out of conference. If such a liability shield is enacted into law, the price of addressing widespread MTBE contamination will fall on states and local communities. Over 28 states have documented MTBE contamination and the costs associated with cleaning up these sites is estimated to be in the billions of dollars.

A meaningful RFS is critical for the economy and the energy independence of our nation. However, our commitment to a strong RFS should not be mistaken for a commitment to legislation that fails to address our remaining concerns.

Volumetric ethanol excise tax credit (VEETC)/Highway Trust Fund: VEETC provides the mechanism to assure that America's supply of ethanol to satisfy the RFS is secure and affordable. Chairman Grassley has gone a long way toward securing the excise tax credit in the package and an extension of the ethanol incentives. Establishing the excise tax credit without repealing the excise tax exemptions, however, fails to repair the damage to the Highway Trust Fund. Adding a parallel tax incentive and failure to correct the existing one will reduce highway revenues and engender fraud. The ability to continue using the excise tax exemption will also jeopardize the RFS if states are allowed to opt out of the RFS based on economic hardship associated with lost highway revenues.

Cooperative electricity issues: Cooperatives must not be subject to undue levels of FERC jurisdiction. Additionally, a final energy bill should include native load protections for rural electric cooperatives. Cooperatives and other transmission dependent utilities must be able to use their existing rights to reserve transmission capacity to meet their service obligations, both now and in the future.

Credit eligibility for cooperatives, municipal utilities and Indian tribes: The Senate bill allows cooperatives and municipal utilities, as well as Native American tribes, to take advantage of the production tax credit for electricity produced from wind and other renewable sources (e.g., biomass, solar, and geothermal). The same mechanism in the Senate bill allows those entities to use the clean coal tax credits. Public power systems and cooperatives serve 25% of the nation's electricity consumers. They provide 20% of the nation's utility generation of electricity. Indian lands hold enormous renewable energy potential. The Senate provisions should be included in the conference agreement or replaced with a mechanism providing the economic equivalent.

Electricity Policy: Any final energy bill must include strong consumer protections. Such protections are necessary to ensure reliable and affordable supplies of electricity for our homes and businesses. Allowing companies to manipulate energy markets and drive up electricity prices is unacceptable and harmful to our economy and our domestic energy security. We feel strongly that additional consumer and ratepayer protections – similar to the prohibition on fraudulent and manipulative practices that passed the Senate by a vote of 57-40 – are needed and must be included in the energy bill.

If the Public Utility Holding Company Act is repealed in the final energy conference report, we believe the Congress should ensure utility ratepayers are protected by giving FERC meaningful utility merger review authority.

Renewable Portfolio Standard: A RPS promoting the production and consumption of electricity generated with renewable resources such as wind, solar, biomass, and geothermal is essential. By ensuring that retail electric utilities have generation portfolios that include ten percent of renewable energy or can purchase tradable credits from others that generate renewable energy, Congress can take an important step toward crafting a sound energy policy. A strong and balanced RPS standard has twice passed the Senate, in H.R. 4 during the 107<sup>th</sup> Congress, and again this year as part of H.R. 6. Additionally, on September 17, 2003, 53 Senators signed a letter supporting the inclusion of a strong RPS in the final energy legislation.

We believe all of the above provisions are key to a balanced national energy policy that will enhance our domestic energy independence and security. However, the lack of transparency in the energy conference and reports of new provisions being added to the energy bill make it difficult for us to evaluate where we will stand on a final energy conference report. We ask that you work with us prior to a final conference meeting to address these concerns.

Sincerely,

Max Baucus  
Byron Dorgan  
Tim Johnson  
Russell Feingold  
Kent Conrad  
Benjamin Nelson  
Herb Kohl  
Mark Pryor  
Blanche Lincoln  
Richard Durbin  
Tom Harkin

cc: Majority Leader Bill Frist

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